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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,116	09/12/2003	Martin A. Putnam	CV-0044	6433
7590	12/27/2005			
			EXAMINER	
			LAVARIAS, ARNEL C	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/661,116	PUTNAM ET AL.	
	Examiner	Art Unit	
	Arnel C. Lavaras	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10/14/05, 12/19/05.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 20 and 23-41 is/are pending in the application.
- 4a) Of the above claim(s) 23-41 is/are withdrawn from consideration.
- 5) Claim(s) 20 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 February 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 12/19/05.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/05 has been entered.

Drawings

2. The drawings were received on 2/16/05. These drawings are objected to for the following reason(s) as set forth below.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
Figure 27- Reference numeral 203 (See Page 19, lines 12 and 14).
Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Response to Amendment

4. The amendments to the specification and abstract of the disclosure in the submission dated 10/14/05 are acknowledged and accepted.
5. The cancellation of Claims 1-19, 21-22 in the submission dated 10/14/05 is acknowledged and accepted. In view of the amendments above, the objections to the claims in Section 9 of the Office Action dated 5/10/05 are respectfully withdrawn. In addition, the rejections of the claims in Sections 11-15 of the Office Action dated 5/10/05 are respectfully withdrawn.
6. The addition of Claims 23-41 in the submission dated 10/14/05 is acknowledged and accepted.

Election/Restrictions

7. Newly submitted Claims 23-41 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 20, drawn to a method of manufacturing an optical identification element, including the steps of winding the substrate around a device to provide at least one grating writing section, bonding the substrate in the at least one grating

writing section to a sheet material, and splitting the substrate disposed in the grating writing section to form a plurality of optical identification elements by cutting the substrate bonded to the sheet material without cutting through the sheet material, classified in Class 359, subclasses 2, 566; Class 65, subclass 433.

- II. Claims 23-41, drawn to an optical identification element and a method of manufacturing the optical identification element, including forming a diffraction grating in a fiber substrate along a longitudinal axis of the substrate, the grating having a resultant refractive index variation, and cutting the substrate transversely to form a plurality of optical identification elements, each element having substantially the same resultant refractive index variation along the entire length of the element, classified in Class 385, subclasses 12, 37.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, all of the subcombinations have separate utility in a combination without the particulars of the other subcombinations. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Since applicant has received an action on the merits for the originally presented invention (i.e. Invention I, Claim 20), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, Claims 23-41 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

8. Claim 20 is allowed.
9. The following is a statement of reasons for the indication of allowable subject matter:

Claim 20 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a method of manufacturing an optical

identification element, as generally set forth in Claim 20, the method including, in combination with the features recited in Claim 20, the step of splitting the substrate disposed in the grating writing section to form a plurality of optical identification elements by cutting the substrate bonded to the sheet material without cutting through the sheet material.

Conclusion

10. This application is in condition for allowance except for the following formal matters:
Claims 23-41, which are withdrawn by original presentation (See Section 7 of this Office Action).

Objections to drawings (See Section 3 of the Office Action).

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavaras whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias
Patent Examiner
Group Art Unit 2872
12/22/05